

Senate Concurrent Resolution 10 - Introduced

SENATE CONCURRENT RESOLUTION NO. 10

BY BOETTGER, BACON, SMITH, GREINER, CHELGREN, BARTZ,
HOUSER, SEYMOUR, BEHN, JOHNSON, KAPUCIAN, ANDERSON,
BERTRAND, ERNST, HAMERLINCK, HAHN, FEENSTRA,
WHITVER, KETTERING, MCKINLEY, and SORENSON

1 A Concurrent Resolution urging the members of the
2 Congress of the United States to propose a parental
3 rights amendment to the Constitution of the
4 United States for submission to the states for
5 ratification.

6 WHEREAS, the right of parents to direct the
7 upbringing and education of their children is a
8 fundamental right implicitly protected by the
9 Constitution of the United States and the Constitution
10 of the State of Iowa; and

11 WHEREAS, this nation has historically relied first
12 and foremost on parents to meet the real and constant
13 needs of children; and

14 WHEREAS, the interests of children are best served
15 when parents are free to make childrearing decisions
16 about education, religion, and other areas of a child's
17 life without government interference; and

18 WHEREAS, the Supreme Court of the United States
19 in *Wisconsin v. Yoder*, 406 U.S. 205 (1972), concluded
20 that, "This primary role of the parents in the
21 upbringing of their children is now established beyond
22 debate as an enduring American tradition"; and

23 WHEREAS, however, the Supreme Court of the United
24 States in *Troxel v. Granville*, 530 U.S. 57 (2000),
25 produced six different opinions on the nature

1 and enforceability of parental rights under the
2 Constitution of the United States; and

3 WHEREAS, the Troxel decision has created confusion
4 and ambiguity about the fundamental nature of parental
5 rights in the laws and society of the states of the
6 United States; and

7 WHEREAS, the United Nations Convention on the Rights
8 of the Child has been proposed and may be considered
9 for ratification by the United States Senate, and the
10 convention's ratification would drastically alter the
11 fundamental right of parents in the United States to
12 direct the upbringing of their children; and

13 WHEREAS, the United Nations convention has already
14 been acceded to by 192 nations and has been cited
15 by United States courts as "customary international
16 law"; and

17 WHEREAS, international influence is being exerted
18 on the United States Supreme Court, as demonstrated
19 in Roper v. Simmons, 543 U.S. 551 (2005), where "the
20 Court has referred to the laws of other countries and
21 to the international authorities as instructive for
22 its interpretation" of the Constitution of the United
23 States; and

24 WHEREAS, Senator James DeMint of the State of South
25 Carolina and Representative Jeff Fortenberry of the
26 State of Nebraska have heretofore introduced in the
27 United States Congress a proposed amendment to the
28 Constitution of the United States to prevent erosion
29 of the enduring American tradition of treating the
30 following parental rights as fundamental rights:

1 SECTION ONE: The liberty of parents to direct
2 the upbringing and education of their children is a
3 fundamental right.

4 SECTION TWO: Neither the United States nor
5 any State shall infringe upon this right without
6 demonstrating that its governmental interest as applied
7 to the person is of the highest order and not otherwise
8 served.

9 SECTION THREE: No treaty may be adopted nor
10 shall any source of international law be employed to
11 supersede, modify, interpret, or apply to the rights
12 guaranteed by this article; and

13 WHEREAS, proposing and ratifying this amendment
14 would add explicit text to the Constitution of the
15 United States to protect the rights of parents as they
16 are now enjoyed, without requiring substantive change
17 to current state or federal laws respecting those
18 rights; and

19 WHEREAS, enumerating parental rights in the
20 Constitution of the United States will preserve
21 parental rights from being infringed upon by shifts
22 in the ideology of and interpretations by the United
23 States Supreme Court; and

24 WHEREAS, enumerating parental rights in the
25 Constitution of the United States will preserve
26 parental rights from being infringed upon by treaty or
27 international law; NOW THEREFORE,

28 BE IT RESOLVED BY THE SENATE, THE HOUSE OF
29 REPRESENTATIVES CONCURRING, That the Iowa General
30 Assembly affirms the rights of parents as enumerated

1 in the proposed parental rights amendment to the
2 Constitution of the United States, as heretofore
3 presented to the Congress of the United States by
4 Senator James DeMint of the State of South Carolina
5 and Representative Jeff Fortenberry of the State of
6 Nebraska, and as described by this resolution; and

7 BE IT FURTHER RESOLVED, That the Iowa General
8 Assembly urges the members of the United States
9 Senate and the United States House of Representatives
10 from this state to support the proposed parental
11 rights amendment, as described by this resolution, by
12 cosponsoring resolutions proposing the amendment in
13 their respective chambers; and

14 BE IT FURTHER RESOLVED, That the Iowa General
15 Assembly urges the members of the Congress of the
16 United States to propose the parental rights amendment,
17 as described by this resolution, to the states of the
18 United States for ratification; and

19 BE IT FURTHER RESOLVED, That upon passage of this
20 resolution, the Secretary of the Senate shall transmit
21 copies of this resolution to the President and members
22 of the United States Senate, the Speaker and members
23 of the United States House of Representatives, and to
24 the clerk of each of the legislative chambers of the
25 other states.